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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,189	04/19/2001	Mark E. Zappi	2343-114-27	1194

7590

02/26/2003

Supervisor  
Patent Prosecution Services  
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1200 Nineteenth Street, N.W.  
Washington, DC 20036-2412

EXAMINER
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CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/26/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-9

# Office Action Summary

Application No.  
09/837,189

Applicant(s)  
Zappi et al.

Examiner  
Ivars Cintins

Art Unit  
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 17, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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Applicant's election, with traverse, of **water** as the contaminated fluid species, **TNT** as the contaminant species, and **kenaf** as the cellulose-based material species is acknowledged. The traversal is on the grounds that a subsequent search would not constitute an undue burden on the Examiner. This argument has not been found persuasive because the searches for the various combinations of contaminated fluid, contaminant and cellulose-based material are clearly divergent, and would constitute a serious burden upon the Examiner. If Applicant is willing to admit on the record: (1) that all of the disclosed contaminated fluid species are not patentably distinct from one another; (2) that all of the disclosed contaminant species are not patentably distinct from one another; and (3) that all of the disclosed cellulose-based material species are not patentably distinct from one another, then the election of species requirement will be withdrawn.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (U.S. Patent No. 4,206,080; hereinafter "Sato") in view of Burnham et al. (U.S. Patent No. 5,997,812; hereinafter "Burnham"), further in view of Wieser-Linhart (U.S. Patent No. 5,762,662). Sato discloses removing a contaminant such as oil from a fluid such as water with an adsorbent material. This reference further teaches that the adsorbent material can be placed in a column, and the water may be passed upwardly through this column (see col. 4, lines 10-14). This reference further teaches (col. 4, lines 18-20) incinerating the used oil adsorbent material. The claims differ from this primary reference by reciting the use of a cellulose-based adsorbent, the step of composting the used adsorbent, the exact amount of spent material reduced (claim 11), and the exact amount of contaminants removed (claims 12 and 13). Burnham teaches (see col. 17, lines 28-29) that a cellulose-based adsorbent such as kenaf will adsorb ten times its ashed weight of oil. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the kenaf of Burnham for the oil adsorbent of Sato, since this secondary reference kenaf is capable of adsorbing oil from water in substantially the same manner as the oil adsorbent of the primary reference, to produce substantially the same results. Furthermore, Wieser-Linhart

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discloses a similar process for adsorbing organic contaminants from a liquid (see col. 1, line 47) with a cellulose based material (see col. 1, line 53; and col. 2, line 6), and further teaches (see col. 2, lines 15-17) disposing of the residual material by burning or composting. It would have been obvious to one of ordinary skill in the art at the time the invention was made to compost the spent adsorbent material of the modified primary reference, as suggested by Wieser-Linhart, since this reference clearly teaches the equivalence between burning (i.e. incinerating) and composting as a way of disposing of spent adsorbent material. The exact amount of spent material reduced, and the exact amount of contaminants removed are not seen to materially affect the overall results of the modified primary reference process, or to produce any new and unexpected results; and are therefore deemed to be obvious matters of choice, which are insufficient to patentably distinguish claims 11-13.

Claim 10 is withdrawn from further consideration, as being directed to a non-elected species.


Applicant's arguments filed September 9, 2002 have been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection. Applicant should note, however, that Burnham clearly discloses kenaf as an oil adsorbent material (col. 17, line 17, 19-20 and 26-29).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
**Ivars C. Cintins**  
**Primary Examiner**  
**Art Unit 1724**

I. Cintins  
February 23, 2003